

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

KWAITEL JACKSON

PLAINTIFF

VS.

CAUSE NO. 4:18CV181-SA-JMV

**CITY OF LELAND, LELAND POLICE DEPARTMENT;
MAYOR KENNY THOMAS, Individually and in his Official
Capacity; CHIEF BILLY BARBER, Individually and in his
Official Capacity; OFFICER COREY WEATHERSPOON,
Individually and in his Official Capacity, and
DEFENDANTS A-D**

DEFENDANTS

**MOTION TO DISMISS FEDERAL CLAIMS AND/OR
GRANT JUDGMENT ON THE PLEADINGS**

NOW COME Defendants, City of Leland, Leland Police Department, Mayor Kenny Thomas, Individually and in his Official Capacity, and Chief Billy Barber, Individually and in his Official Capacity, by and through counsel, and respectfully move this Court for a finding of dismissal and/or judgment on the pleadings as to claims arising under federal law, to-wit:

1) PREMISE: This is a time barred state court lawsuit where the Plaintiff responded 2 days prior to the scheduled hearing with a statement attempting to raise a federal question. [**Doc. 1**, Complaint, at Exhibit **Doc. 1-3**]. Defendants exercised their right to removal. [**Doc. 1**]. It is clear from the face of the Plaintiff's Complaint that Federal Claims are constitutionally deficient, because they do not make any.

2) INDIVIDUAL DEFENDANTS THOMAS AND BARBER further invoke qualified immunity. To the extent dismissal is not granted, Defendants pray for a Rule 7 Reply pursuant to *Schultea v. Wood*, 47 F.3d 1427, 1433-34 (5th Cir. 1995).

3) BRIEFING: In accord with Uniform Local Rule 7(b), these Defendants are filing their

supporting authorities herewith.

NOW, THEREFORE, these Defendants respectfully move this Court to dismiss the instant Complaint with prejudice pursuant to Rule 12(b)(6) & (c), *Fed. R. Civ. Proc.*

RESPECTFULLY SUBMITTED this the 7th day of September, 2018.

JACKS GRIFFITH LUCIANO, P.A.

By: /s/ **Daniel J. Griffith**

Daniel J. Griffith, MS Bar No. 8366
Attorney for Defendants City of Leland, Leland Police
Department, Mayor Kenny Thomas, Individually and
in his Official Capacity, and Chief Billy Barber,
Individually and in his Official Capacity

Of Counsel:

Jacks | Griffith | Luciano, P.A.
P. O. Box 1209
150 North Sharpe Avenue
Cleveland, MS 38732
t 662-843-6171
f 662-843-6176
Email: dgriffith@jlpalaw.com
www.jlpalaw.com

CERTIFICATE OF SERVICE

I, Daniel J. Griffith, counsel for Defendants, in the above case, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Motion to Dismiss Federal Claims pursuant to Rules 12(b)(6) & 56, Fed. R. Civ. Proc* to be delivered via ECF filing to all counsel of record.

Ashley N. Harris, Esq.
Law Office of Ashley N. Harris, PLLC
P.O. Box 461
Leland, MS 38756
Phone: (662) 580-5161
Fax: (662) 580-5169
Attorney for Plaintiff

Willie Griffin, MS Bar #5022
Bailey & Griffin, P.A.
Post Office Box 189
1001 Main Street
Greenville, MS 38702-1966
Attorney for Plaintiff

Wilton V. Byars, III, Esq.
Tiffany Carey, Esq.
Daniel Coker Horton Bell, P.A.
265 N. Lamar, Ste. R
P.O. Box 1396
Oxford, MS 38655
Phone: (662) 232-8979
Fax: (662) 232-8940
Email: wbyars@danielcoker.com
tcarey@danielcoker.com
Attorney for Corey Weatherspoon

FILED this 7th day of September, 2018.

/s/ **Daniel J. Griffith**
Daniel J. Griffith